



Agenda Date: 03/22/07
Agenda Item: 2C

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

ENERGY

IN THE MATTER OF THE PETITION OF)	ORDER APPROVING
PIVOTAL UTILITY HOLDINGS, INC. D/B/A)	SALE OF REAL PROPERTY
ELIZABETHTOWN GAS COMPANY FOR)	
AUTHORITY TO SELL CERTAIN REAL)	
PROPERTY IN ELIZABETH, NEW JERSEY)	DOCKET NO. GM06100732

(SERVICE LIST ATTACHED)

BY THE BOARD:

On October 17, 2006, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas ("PUHI" "Elizabethtown" or "Company") filed a petition with the Board of Public Utilities ("Board"), pursuant to N.J.A.C. 48:3-7 and N.J.A.C. 14:1-5.6, seeking approval of the sale of real property in the Township of Elizabeth, Union County, New Jersey, to Don Jon Marine Co., Inc. ("Buyer") for the sum of \$800,000.00. The parcel of land ("Butler Street" or "Property") is referred to as Block 2, Lot 74 on the official Elizabeth tax map.

The Property was originally acquired by the Company in 1924 in order to bring rail service to the Company's Erie Street Facility, which was used by Elizabethtown as a manufactured coal gas plant site until 1947. The approximate 2.5 acres of land was divided into two parts. The Central Railroad of New Jersey was granted 0.7 acres of right-of-way shortly after the purchase of the Butler Street property. The remaining 1.82 acres was leased to Connelly, Inc. for their iron sponge manufacturing operations in association with the South Second Street and Third Avenue Plant. In 1987, the cessation of Connelly's operations at the Butler Street site triggered a requirement under the New Jersey Environmental Cleanup Responsibility Act ("ECRA") to investigate, and if necessary, remediate the property. The New Jersey Department of Environmental Protection ("NJDEP") detected contamination at the site and required the property to be capped and placed the site under deed restrictions. Elizabethtown has included approximately \$6.2 million of remediation expenditures, including remediation expenditures related to this site, for recovery through its Board approved Remediation Adjustment Clause

("RAC"). Elizabethtown completed the remediation in 1995. On April 28, 1995 NJDEP issued a letter confirming both NJ Environmental Cleanup Responsibility Act ("ECRA") compliance and closure of the project. In 1997, the Company concluded that the Property was not income-producing and was no longer used and useful to the Company. The Company has no equipment, materials or right-of-way to maintain electrical service. Therefore, the Property has no service agreement.

The net book value of the Property and associated improvements as of June 30, 2006 totaled \$184,439.39. The net pre-tax gain amounts to \$615,506.61. The Property was appraised by Fleming White Appraisal, Inc. of Colonia, New Jersey, on October 12, 2006 at \$810,000.00.

Elizabethtown advertised the sale of the Property in the Star Ledger on two separate occasions. The only bid for the Property was submitted by the Buyer in the amount of \$800,000.00. The Company maintains that the Buyer is a favorable purchaser inasmuch as it has agreed to purchase the property in an "as is" condition, an essential term considering the environmental concerns which exist. The Company also notes that the Buyer will be assuming Elizabethtown's responsibility for complying with the existing NJDEP directives, including the maintenance of the impermeable cap, the costs of which Elizabethtown currently recovers through the RAC. Finally, the Buyer has agreed to a release and covenant not to sue the Company for any environmental liability or other claims which may arise out of the past, present or future physical condition of the Butler Street Property.

The Division of Rate Counsel recommends that the sale of the property should proceed provided the treatment of the net proceeds from the sale are addressed in the Company's 2007 Societal Benefits Clause ("SBC") filing and provided interest is accrued on the net proceeds at the interest rate applied to the SBC until the appropriate treatment of the proceeds is resolved.

Discussion and Findings

After careful review and consideration of the petition and attachments submitted in this matter, the Board **FINDS** that the sale of the Property by the Company to the Buyer will not adversely affect the public interest and will not affect the Company's ability to render safe, adequate and reliable service. The Board **HEREBY APPROVES** the sale of the Property to the Buyer in the amount of \$800,000.00 and **HEREBY DIRECTS** the parties to address the issue of the appropriate treatment of the net proceeds in the Company's 2007 SBC filing. The net proceeds of the sale shall accrue interest at the interest rate applied to the SBC until the appropriate treatment of the proceeds is resolved. The Board **HEREBY APPROVES** the Company's proposed form of journal entries, subject to the terms and conditions set forth herein.

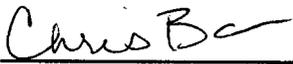
This Order shall be of no effect and null and void if the transaction approved in this Order is not consummated within six (6) months of the date hereof.

DATED: 3/22/07

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

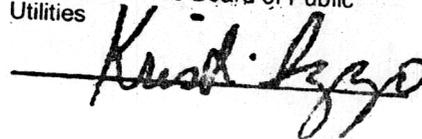

CONNIE O. HUGHES
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



IN THE MATTER OF THE PETITION OF PIVOTAL UTILITY HOLDINGS, Inc. d/b/a
ELIZABETHTOWN GAS FOR AUTHORITY TO SELL CERTAIN REAL PROPERTY
FOR \$800,000.00

DOCKET NO. GM06100732

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